

REMARKS

Claims 1 through 24 are currently pending in the instant application. The Examiner has rejected claims 1, 2, 4, 14-18, 20, and 22-24 as anticipated under 35 U.S.C. §102(b) in view of U.S. Patent 5,851,517 ("the '517 patent"). The Examiner has also rejected claims 1-17 and 19-24 as anticipated under 35 USC §102(b) in view of International Publication WO 93/23446 ("the '446 publication"). Applicant traverses these rejections.

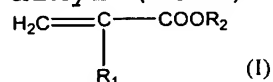
U.S. Patent 5,851,517

Claim 1, the only independent claim of the instant application reads as follows:

A dispersion of particles in a non-aqueous, silicone medium wherein said particles comprise at least one acrylic polymer comprising:

(A) a skeleton that is insoluble in said medium; and
 (B) a portion of said polymer that is soluble in said medium comprising side chains covalently bonded to said skeleton, wherein said polymer is obtained by polymerization of a polymerizable mixture, comprising:

(i) a first C₁-C₃ alkyl (meth)acrylate monomer, alone or as a mixture of C₁-C₃ alkyl (meth)acrylate monomers, optionally in the presence of one or more additional monomers selected from the group consisting of acrylic acid, methacrylic acid and alkyl (meth)acrylates of formula (I),



and the salts thereof, wherein:

R₁ is a hydrogen atom or a methyl group; and

R₂ is:

(a) a linear or branched alkyl group containing from 1 to 6 carbon atoms, said group containing one or more substituents selected from the group consisting of one or two oxygen atoms, -OH, F, Cl, Br, I, and -NR'R", wherein R' and R", which may be identical or different, are linear or branched C₁-C₃ alkyl groups; or

(b) a cyclic alkyl group containing from 3 to 6 carbon atoms, said group optionally containing one or more oxygen atoms, and optionally

containing one or more substituents selected from the group consisting of OH, F, Cl, BR, and I; and (ii) at least one silicone macromonomer comprising an end group that reacts during said polymerization said side chains, said macromonomer having a weight average molecular mass of at least 200 and representing 0.05% to 20% by weight of the polymer.

The Examiner alleges that the '517 patent teaches a dispersion of particles, that are surface-stabilized by polymer particles, in a non-aqueous silicone medium for use in a cosmetic, hygiene or pharmaceutical composition. The Examiner also alleges that the surface-stabilizing polymer particles can be sequential or grafted block co-polymers comprising at least one block of polyorganosiloxane type and at least one block of a radical polymer or of a polyether or polyester.

The '517 patent is directed to a cosmetic composition having a dispersion of polymer particles. The polymer disclosed in the '517 patent is surface-stabilized by the addition of a stabilizer. At c.3, 11.38-39, it is stated that "[t]he polymer . . . may be of any nature." (c.3, 11.38-39). The '517 patent then discusses the stabilizer in columns 4 and 5. The '517 patent also identifies that the "at least one polymer [is] stabilized at the surface by a stabilizer". (c.1, 1.36). Clearly the '517 patent teaches that the polymer and stabilizer are present in the dispersion as separate and discrete components as opposed to the instant invention which claims a polymer comprising an insoluble a skeletal backbone and soluble side chains covalently bonded to the backbone. (See claim 1 of the instant application).

The '517 patent also fails to teach the "at least one silicone macromonomer" as recited in claim 1. Namely, the instantly claimed invention requires that the macromonomer comprises "an end group". (See claim 1; ¶[0043]). The '517 patent fails to teach the use of any "end groups" in the

sequential or grafted block co-polymers. Even further, the '517 patent is silent with respect to the further recitations of claim 1, namely, (A) that the acrylic polymer skeleton is "insoluble in said [silicone] medium", and (B) that a portion of said monomer is soluble in said silicone medium "comprising side chains covalently bonded to said skeleton".

In view of the foregoing, Applicant respectfully requests withdrawal of the rejection.

International Application Publication No. WO93/23446

The Examiner alleges that the '446 publication teaches a cosmetic composition comprising adhesive agents which are polysiloxane grafted polymers made by the polymerization of polysiloxane containing monomers and non-polysiloxane containing monomers, in a silicone medium. However, the '446 publication fails to teach that any dispersion of said particles be non-aqueous. While Applicant acknowledges that various silicones are discussed among other components on pages 16 and 17 as possible media, there is no disclosure of these media being non-aqueous. The mere fact that silicone media are disclosed does not inherently mean that such media are non-aqueous. Indeed, the only working examples in the '446 publication which disclose a "polysiloxane grafted polymer[s] made by polymerization of polysiloxane containing monomers and non polysiloxane containing monomers" within a silicone medium are examples IX and X and both of these examples contain large quantities of water, 72.69% and 72.54% respectively. These mixtures are not "non-aqueous", as that term is used in the context of the present application. See paragraph [0017] of the instant application, which teaches non-aqueous silicone medium as being comprised of "one or more silicone compounds as defined below, the said medium possibly containing up to 1% by weight of water." Additionally, the Examiner's reliance on the '517 patent to support the

proposition that the polydimethylsiloxanes disclosed in the '446 publication are non-aqueous as a part of an anticipation argument fun afoul of the requirement that "[f]or a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be identically shown in a single reference." *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990).

In view of the foregoing, Applicant respectfully requests withdrawal of the rejection.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: October 9, 2007

Respectfully submitted,

By 

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